

## **REMARKS/ARGUMENTS**

Claims 1 – 11 and 13-16 are currently pending in this application, as amended. By the present amendment, claims 1, 3, 5, 7, 8, 10, 11, 13, 15 and 16 have been amended. Applicant respectfully submits that no new matter has been introduced into the application by these amendments.

### **ALLOWABLE SUBJECT MATTER**

In the June 23, 2009 Action, it was indicated that claim 11 is allowed. Further, claims 3, 6-10 and 13-16 were only objected to as being dependent upon a rejected base claim. In response, claim 3 has been rewritten as an independent claim. Claim 16 has also been rewritten as an independent claim. Further amendments have been made in order to correct the formalities noted in the Action.

Independent claim 3, which was indicated as including allowable subject matter, includes all the limitations of claim 1, except for the external thread and the outlet end being cylindrical, which is not believed to be critical to the allowability of the claim in view of the known prior art. Based on the October 2, 2009 Advisory Action, this required further review as all the limitations of claim 1 were not incorporated.

Claim 16 also requires consideration as a new independent claim.

### **CLAIM OBJECTIONS**

In the Action, objections were noted with respect to claims 1, 3, 5, 7, 8, 10, 11, 13 and 15, due to a number of minor informalities. Applicant has reviewed and amended the claims in accordance with the suggestions noted in the Action such that proper antecedents are provided and such that the plumbing fixture is not positively recited and the claims are directed to the sub-combination of the aerator. In view of the amendments noted above, it is believed that all of the objections have been addressed. Accordingly, withdrawal of the objection to the claims is respectfully requested.

**CLAIM REJECTIONS – 35 U.S.C. §102**

Claims 1, 2 and 4 were rejected under 35 U.S.C. §102(b) as anticipated by U.S. 3,902,671 to Symmons. Applicant respectfully traverses this rejection.

Claim 1 is directed to an aerator for a plumbing fixture, with the plumbing fixture comprising a water outlet (2). An aerator (4), through which water flows, is pivotally mounted via a swiveling mechanism and is removably fixed to an outlet end of the water outlet. The pivotable aerator (4) is mounted within an outer ring (5) which is adapted to be threadingly engaged with the outlet end.

Symmons discloses a spray aerator with an aerator assembly 4 located at the lower end of a spray cap 78 and member 50, both of which are located below a ball joint 30 that is connected to an end of a water outlet (spout 10) by a coupling 22 that holds the ball 30. There is no suggestion or disclosure of a pivotable aerator being mounted within an outer ring that is adapted to be threadingly engaged at the outlet end. It is clear that the aerator assembly 4 of Symmons is physically spaced apart from the coupling 22 that connects to the outlet, which cannot meet this limitation.

Accordingly, withdrawal of the section 102 rejection of claim 1 in view of Symmons is respectfully requested.

As claims 2 and 4 depend from claim 1, they should also be patentable over this reference.

**CLAIM REJECTIONS – 35 U.S.C. §103**

Claims 1, 2, 4 and 5 were rejected under 35 U.S.C. §103 as unpatentable over U.S. 2,196,783 to Shook. Applicant respectfully traverses this rejection.

Shook is directed to a pivoting shower head. A partially spherical cap having a plurality of fine apertures is mounted in a socket 4 of a body 2 that engages the outlet pipe for the shower. No aerator is suggested or disclosed, and clearly there can be no suggestion in this reference that an aerator is or would be located within the outer ring that is adapted to threadingly engage the outlet end of a water outlet.

Accordingly, withdrawal of the section 103 rejection of claim 1 is respectfully

requested.

As claims 2, 4 and 5 depend from claim 1, they should also be patentable over this reference for the reasons noted in connection with claim 1.

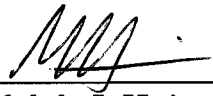
**CONCLUSION**

If the Examiner believes that any additional minor formal matters need to be addressed in order to place the present application in condition for allowance, the Examiner is invited to contact the undersigned by telephone at the Examiner's convenience.

In view of the foregoing amendments and remarks, Applicant respectfully submits that the present application, including claims 1-11 and 13-16, is in condition for allowance, and a Notice to that effect is respectfully requested.

Respectfully submitted,

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